

Subject: In the Matter of Amendment of Part 97 of the Commission's Rules To Implement WRC-03 Regulations Applicable to Requirements for Operator Licenses in the Amateur Radio Service (05-235)

### Summary:

There are two petitions for reconsideration:

- Mr. Ward complains that his comments were lost, but he gives us no indication of what those comments were. He does not even claim that his comments might have changed the final decision.
- Mr. Gordon recycles an argument that was already made by others during the original comment period. It was considered by the Commission before the Report and Order was issued.

Since neither petition brings anything new to the discussion, both should be denied.

### Russel Ward's petition for reconsideration on procedural grounds

Mr. Ward describes difficulty submitting comments to the ECFS via email. While I believe that his email did not get through, some of his claims clearly go beyond the evidence that he presents. He does not know that the FCC is discriminating against radio amateurs, that comments are lost specifically because they have a call sign in the email address, or that the SMTP server at the FCC is improperly configured.

All he knows is that his email did not get through.<sup>1</sup> This would have been quite obvious when he did not receive the automatic acknowledgment.

From the information given, it is not clear that the ECFS is broken, but let us assume for the purposes of discussion that it is. Obviously, it should be fixed, but what about the regulatory issues?

As a remedy to the problems that he (and possible unknown others) experienced, he proposes to undo the regulatory changes and start over from the comment period.

Before such a drastic a step, I would expect to see some evidence to suggest that Mr. Ward's comments (or other possible lost comments) are so insightful that we might reasonably expect them to lead the Commission to a different result.

In my own comments on this proceeding, I noted that the same themes occurred repeatedly in comment after comment. This is unsurprising, since a shared set of premises will lead most any group of intelligent observers to similar conclusions.

If Mr. Ward could show that he had new idea that nobody else submitted, he would have had a powerful argument for his petition.

But if he has such an idea, he does not show it to us. He gives us no good reason to think that he has thought of the one compelling argument that three thousand other people did not.

It is likely that others submitted comments that covered the same ideas that he would have, and

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<sup>1</sup> If this is a regular problem, maybe submissions should only be accepted through the web form, thus replacing the store-and-forward nature of email with the immediate response of a web form. On the other hand, if only Mr. Ward had this problem, it may well have been on his end of the transaction.

therefore his ideas have been considered, even if his actual words have not. From those comments of his that I found in the ECFS<sup>2</sup>, this appears to be the case.

If I am wrong, he can easily remedy the situation by submitting another petition for reconsideration that includes the compelling arguments that may not have been considered.

Until then, in the absence of any suggestion that there is some new idea out there that may have relevance to the decision, his petition should be denied.

### Anthony Gordon's petition to reinstate morse code testing for the Amateur Extra license

The idea that a morse code test is necessary for emergency communication was a common theme raised by others during the original comment period. Mr. Gordon raises that same argument again, this time rephrased to use the words "terrorism" and "national security" instead of "emergency".

I know it is currently popular to tie every possible issue to terrorism, but in fact it is still the same argument: Morse code testing is necessary for emergency communication. Mr. Gordon's emphasis on terrorism and military action is only an example of how such an emergency might occur.

Since Mr. Gordon is only repeating an argument that has already been considered, his petition should be denied.

### An argument against Mr. Gordon's idea

Although Mr. Gordon's idea was proposed by others and already considered by the FCC, his petition at least has given us something to discuss. Here, I repeat one powerful counter-argument to his idea. (This rebuttal was also made during the original comment period.)

Mr. Gordon makes the same mistake that proponents of morse code testing always make when they try to cast their position in terms of emergency communication: His proposal is inadequate to achieve the goals he advocates:

1. There is no requirement to maintain any level of proficiency once the test is passed. Unlike the abstract knowledge of the written tests, morse code is a physical skill. Like all physical skills, it deteriorates if you do not practice regularly. To prove that the skill is retained, regular retesting is necessary.
2. Even a highly skilled operator is unable to use morse code without proper equipment. There is no requirement to possess that equipment. To prove that the skill can actually be used, the operator must periodically show that he still possesses morse capable equipment that is suitable for use in emergency situations.<sup>3</sup>
3. In an emergency situation, there is a lot more to know than just how to talk on the radio, whether by voice or morse code. Message handling protocols, who to talk to, what to say, etc are just as important. There is no test of these additional skills, nor is there a requirement to be

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<sup>2</sup> There are comments by "russ ward" with a similar address.

<sup>3</sup> In a way, this resembles the militias of our country's colonial period. Every man in the militia was required to bring his own gun, gunpowder, and shot when called up for action or training,. A man would be sanctioned if he failed to show his commander that he had the necessary material in proper quantities and in good working order. If the argument is that you need to be able to shoot to be in the militia, then you better have a gun. Likewise, if the argument is that you must be able to send morse code, you better have a radio that can send and receive CW.

part of an organization that can support emergency communication. To prove that the skill can be used effectively, the operator must supply evidence that he participates satisfactorily in regular emergency communication drills.

I do not advocate the additional requirements that I hypothesize here<sup>4</sup> -- only point out that Mr. Gordon has missed some obvious implications of his own argument. It is not my job to develop that argument for him, so I have not even considered what further requirements are necessary to reach his goal.

Because Mr. Gordon's own petition does not achieve the goals that he intends for it, it should be denied even if it were not simply a repeat of ideas that were already considered.

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<sup>4</sup> Many amateurs choose to meet these requirements on their own initiative, actively taking pleasure in keeping themselves prepared. The issue Mr. Gordon raises is about how much government regulation we want to give them.